

12:31:28

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE SOUTHERN DISTRICT OF OHIO  
3           WESTERN DIVISION

4                   \*   \*   \*

5 HOBART CORPORATION, et al.,

6                   Plaintiffs,

7                   vs.

CASE NO. 3:13-cv-00115-WHR

8 THE DAYTON POWER AND

9 LIGHT COMPANY, et al.,

10                  Defendants.

11                   \*   \*   \*

12                  Deposition of WILLIAM B. FLECKENSTEIN,  
13 Witness herein, called by the Plaintiffs for  
14 cross-examination pursuant to the Rules of Civil  
15 Procedure, taken before me, Michelle A. Elam, a  
16 Notary Public in and for the State of Ohio, at the  
17 offices of Sebaly, Shillito + Dyer, 1900 Kettering  
18 Tower, 40 North Main Street, Dayton, Ohio, on  
19 Tuesday, the 17th day of September, 2013, at 12:31  
20 p.m.

21                   \*   \*   \*

1	EXAMINATIONS CONDUCTED	PAGE
2	BY MR. SILVER:	6
3	BY MR. MERRILL:	75

5	EXHIBITS MARKED	PAGE
6	(Thereupon, Fleckenstein Exhibit	16
7	Number 1 was marked for purposes of	
8	identification.)	
9	(Thereupon, Fleckenstein Exhibit	17
10	Number 2 was marked for purposes of	
11	identification.)	

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## 1 APPEARANCES:

2 On behalf of the Plaintiffs:

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4 By: Larry Silver  
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13 On behalf of the Defendant The Dayton Power  
and Light Company:

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19 On behalf of the Defendant Pharmacia, LLC, a  
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1 APPEARANCES: (Cont'd.)

2 On behalf of the Defendant Sherwin-Williams  
3 Company:

4 Gallagher Sharp

5 By: Erik J. Wineland (Telephonically)  
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18 On behalf of the Defendants Fickert Devco and  
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20 Coolidge Wall

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On behalf of the Defendant P-Americas, LLC:

Morgan, Lewis & Bockius

By: William B. Nes (Telephonically)  
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202-739-5779

1 APPEARANCES: (Cont'd.)

2 ALSO PRESENT:

3 Jennifer Meyer  
4 Nancy Fleckenstein

5 \* \* \*

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1 WILLIAM B. FLECKENSTEIN  
2 of lawful age, Witness herein, having been first  
3 duly cautioned and sworn, as hereinafter  
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

12:31:45 6 BY MR. SILVER:

12:31:45 7 Q. Mr. Fleckenstein, I'm going to try  
12:31:50 8 to speak up for you.

12:31:52 9 A. Fleckenstein.

12:31:55 10 Q. I think you're hearing pretty  
12:31:58 11 well.

12:31:59 12 A. Okay.

12:31:59 13 Q. Can you state your full name for  
12:32:01 14 the record, please?

12:32:02 15 A. William B. Fleckenstein.

12:32:05 16 Q. And what about your address?  
12:32:09 17 What's your address?

12:32:10 18 A.

12:32:13 19 Q. In what town, please?

12:32:15 20 A. In Xenia.

12:32:16 21 Q. Ohio?

12:32:18 22 A. Ohio. Yes.

12:32:19 23 Q. And what is your date of birth?

12:32:25 24 A. 8-15-31.

12:32:27 25 Q. And that would make you recently

12:32:34 1 eighty-two years young, right?

12:32:37 2 A. Yes, sir.

12:32:37 3 Q. All right. Well, what's going to  
12:32:39 4 happen today is I'm going to ask you some  
12:32:45 5 questions, and it's going to be a  
12:32:47 6 question-and-answer period. I represent three  
12:32:50 7 companies that are NCR Corporation, Hobart, and  
12:32:56 8 Kelsey Hays that are doing an environmental  
12:32:59 9 cleanup at the South Dayton dump and landfill.

12:33:03 10 Have you ever heard of the South  
12:33:05 11 Dayton dump and landfill?

12:33:06 12 A. Yes, sir.

12:33:07 13 Q. And the other parties here are  
12:33:11 14 parties we've included in some litigation with  
12:33:15 15 the intention of trying to get them to help us  
12:33:20 16 pay for the study and the remediation of the  
12:33:23 17 South Dayton dump and landfill.

12:33:26 18 Do you understand what I just  
12:33:27 19 said?

12:33:27 20 A. Yes, sir.

12:33:28 21 Q. Thank you. So what's going to  
12:33:31 22 happen today is I'm going to ask you some  
12:33:33 23 questions, and it will be a question-and-answer  
12:33:37 24 period. Some of the other attorneys may also  
12:33:40 25 ask you questions. I don't expect this is

12:33:42 1 going to go on for more than two or three  
12:33:46 2 hours, and then we'll -- then you're going to  
12:33:49 3 be free to go.

12:33:50 4 And during the time we're here, if  
12:33:52 5 you need a break for any reason or your wife Nancy  
12:33:56 6 thinks we should take a break, please just signal  
12:33:59 7 and we can take a five- or ten-minute break or  
12:34:02 8 whatever amount of time is needed.

12:34:04 9 Do you understand me so far?

12:34:05 10 A. So far.

12:34:06 11 Q. And I'm speaking loud enough?

12:34:09 12 A. It could be a little louder.

12:34:11 13 Q. I'll try. All right. Have you  
12:34:14 14 ever had your deposition taken before?

12:34:16 15 A. At home.

12:34:18 16 Q. In another case?

12:34:21 17 A. I don't remember everything about  
12:34:24 18 it, though.

12:34:24 19 Q. Somebody -- a lawyer was asking  
12:34:27 20 you questions?

12:34:28 21 A. I don't know if it was a lawyer.

12:34:30 22 Q. Uh-huh. Do you know what the --  
12:34:32 23 was it just an interview, perhaps? Maybe just  
12:34:36 24 an interview? Was there a court reporter  
12:34:38 25 taking everything down?



12:34:39 1 A. Just an interview that -- I don't  
12:34:43 2 remember exactly how long it took, but asked me  
12:34:49 3 questions about what's -- what I know about  
12:34:52 4 what they dumped over there.

12:34:54 5 Q. Sure. Okay. All right. Have you  
12:34:57 6 ever testified in court before?

12:34:58 7 A. No, sir.

12:34:59 8 Q. All right. Well, I just want to  
12:35:02 9 give you a couple of simple instructions. The  
12:35:06 10 first is, if you don't hear my question -- this  
12:35:08 11 is an important one. If you don't hear my  
12:35:11 12 question, just ask me to repeat it.

12:35:13 13 A. Okay.

12:35:14 14 Q. And the second is if you don't  
12:35:17 15 understand my question, ask me to rephrase it  
12:35:20 16 just so you'll understand what I'm asking.

12:35:23 17 A. Okay.

12:35:23 18 Q. The third important instruction  
12:35:27 19 is -- and I don't think this is going to be a  
12:35:29 20 problem -- but wait until I finish the whole  
12:35:32 21 question before you answer because she needs to  
12:35:36 22 be able to get everything down.

12:35:38 23 A. Okay.

12:35:38 24 Q. You got that?

12:35:39 25 A. I hope so.

12:35:40 1 Q. Me, too. All right. I think  
12:35:49 2 we're ready to go.

12:35:51 3 Now, were you born in Ohio?

12:35:53 4 A. Yes.

12:35:54 5 Q. Where in Ohio?

12:35:55 6 A. In the Dayton area.

12:35:57 7 Q. And you grew up here?

12:35:59 8 A. Yes, sir.

12:35:59 9 Q. School here?

12:36:01 10 A. Yes, sir.

12:36:02 11 Q. Where did you go to school?

12:36:04 12 A. Our Lady of the Rosary did grade  
12:36:08 13 school and Chaminade for two years.

12:36:11 14 Q. Chaminade.

12:36:13 15 A. Yeah.

12:36:13 16 Q. And then did you go to work after  
12:36:14 17 you left Chaminade?

12:36:16 18 A. I worked for my father.

12:36:18 19 Q. What did he do?

12:36:19 20 A. He was in the poultry business.

12:36:22 21 Q. Oh, okay. Right in the Dayton  
12:36:24 22 area, I take it --

12:36:25 23 A. Yes, sir.

12:36:26 24 Q. -- where you lived?

12:36:27 25 A. Third and Broadway. We had a

12:36:34 1 business at home on North Dixie, 5430 North  
12:36:40 2 Dixie Drive.

12:36:40 3 Q. How long did you work with your  
12:36:42 4 father?

12:36:42 5 A. Until I went in the military. I  
12:36:44 6 was twenty -- twenty-three, I believe.

12:36:47 7 Q. So that would have been in 1954  
12:36:53 8 you went into the military?

12:36:55 9 A. No. I'm sorry. '52. I got out  
12:36:58 10 in '54.

12:37:01 11 Q. Okay.

12:37:02 12 A. I'm sorry. It's a little hard for  
12:37:04 13 me to remember all these years.

12:37:05 14 Q. You're doing pretty good. What  
12:37:07 15 branch of the military?

12:37:08 16 A. Marine Corps.

12:37:09 17 Q. And where were you stationed?

12:37:11 18 A. San Diego and Japan.

12:37:14 19 Q. Where at in Japan?

12:37:20 20 A. Right on the base at Mt. Fuji.

12:37:24 21 Q. Came back to Dayton?

12:37:27 22 A. Yes.

12:37:27 23 Q. And did you then find a job?

12:37:29 24 A. Yes.

12:37:33 25 Q. Did you go back to work with your

12:37:35 1 dad first?

12:37:36 2 A. No. Well, for a little while.

12:37:39 3 But Dayton Power and Light after that. No,

12:37:44 4 excuse me. I worked for 7-Up Bottling Company.

12:37:50 5 Q. 7-Up?

12:37:51 6 A. Yeah, for a few years. And then

12:37:54 7 DP&L.

12:37:55 8 Q. What did you do for the Dayton --

12:37:57 9 for 7-Up?

12:37:58 10 A. I'm sorry? 7-Up? Delivered --

12:38:03 11 Q. You delivered?

12:38:04 12 A. -- beverage.

12:38:06 13 Q. Did you drive the truck?

12:38:07 14 A. Yes, sir.

12:38:08 15 Q. And you did that for what, how

12:38:11 16 many years would you say?

12:38:11 17 A. Oh, I'd say about a year.

12:38:13 18 Q. So when did you get married?

12:38:15 19 A. Oh, you're asking a bad question.

12:38:19 20 Q. That means you didn't prepare for

12:38:21 21 this, did you?

12:38:23 22 A. No. I didn't. What year?

12:38:28 23 MRS. FLECKENSTEIN: May 26, 1956.

12:38:32 24 Q. All right. I'm going to write

12:38:35 25 this down for you and hand it to you. 1956,

12:38:39 1 huh?

12:38:39 2 A. Yes.

12:38:40 3 Q. And I take it you've been married  
12:38:42 4 ever since?

12:38:43 5 A. Yes.

12:38:44 6 Q. And where did you meet Nancy?

12:38:47 7 A. Let's see. I'll forget. Oh, I  
12:38:50 8 was going with another girl.

12:38:53 9 Q. Leave that off the record.

12:38:56 10 A. I was going with another girl.  
12:38:59 11 They were buddies, the other girl and Nancy  
12:39:01 12 were buddies, and the other girl went to  
12:39:03 13 Florida and I stayed here.

12:39:05 14 Q. Her mistake.

12:39:10 15 A. Well, I don't know about that. I  
12:39:12 16 got a good one right here.

12:39:14 17 Q. Hold on a second. I just want to  
12:39:21 18 make sure I don't get any interruptions.

12:39:21 19 (Pause in proceedings.)

12:39:25 20 Q. Okay. You worked at 7-Up for  
12:39:27 21 about a year?

12:39:28 22 A. I think it was a year, maybe a  
12:39:31 23 little longer, but I can't recall.

12:39:32 24 Q. And then you applied for a job  
12:39:35 25 with Dayton Power and Light?

12:39:37 1 A. Dayton Power and Light, yes.

12:39:39 2 Q. And they hired you?

12:39:40 3 A. Yes, sir.

12:39:40 4 Q. Now, that would have been, say,  
12:39:44 5 around 1955, before you got married?

12:39:46 6 A. Yeah. That's pretty close.

12:39:47 7 Q. Now, where did you start working  
12:39:52 8 at Dayton Power and Light?

12:39:54 9 A. '55. I forget exactly.

12:40:01 10 Q. Do you remember which location?

12:40:03 11 A. What location?

12:40:04 12 Q. Yeah. For Dayton Power and Light.

12:40:07 13 A. Yeah. It was on Monument Street.

12:40:09 14 Q. And what did you do for them on  
12:40:12 15 Monument Street when you started working?

12:40:14 16 A. Worked as a laborer and then I got  
12:40:22 17 a -- what they called helper first class, which  
12:40:24 18 was truck driver.

12:40:26 19 Q. Uh-huh.

12:40:27 20 A. And I did operate some machinery,  
12:40:32 21 bulldozers, overhead -- crane, mobile crane.  
12:40:40 22 That's about it. Setting poles and digging,  
12:40:44 23 digging holes by hand.

12:40:46 24 Q. Do you remember the department you  
12:40:47 25 were in when you started?

12:40:48 1 A. It was overhead line department.

12:40:50 2 Q. Out of Monument Road?

12:40:52 3 A. Yes.

12:40:53 4 Q. Did, at some point, you get  
12:40:55 5 transferred to another location?

12:40:59 6 A. Then I put in an application for  
12:41:10 7 substation. Electric construction.

12:41:14 8 Q. The electric construction  
12:41:15 9 department?

12:41:16 10 A. Yes. Yes.

12:41:17 11 Q. Uh-huh. And did you get accepted?

12:41:19 12 A. Sir?

12:41:20 13 Q. Did you get accepted into that?

12:41:21 14 A. Oh, yes. Yes.

12:41:23 15 Q. And what happened then? Were you  
12:41:24 16 still working out of --

12:41:26 17 A. Go around and build substations  
12:41:29 18 around the Dayton Power and Light system.

12:41:31 19 Q. What was your home base?

12:41:35 20 A. Dayton.

12:41:35 21 Q. Which facility?

12:41:36 22 A. I'm sorry?

12:41:38 23 Q. Which facility was your home base?

12:41:41 24 A. South Broadway.

12:41:42 25 Q. So you moved from Monument Road to

12:41:45 1 South Broadway?

12:41:46 2 A. Well, when they moved out of the  
12:41:47 3 building and they moved to Broadway, they built  
12:41:50 4 a new building there. They moved everybody  
12:41:53 5 down there.

12:41:55 6 Q. So you moved from Monument Road to  
12:41:57 7 South Broadway --

12:41:58 8 A. On Dryden Road, I believe it --  
12:42:01 9 not Dryden Road. South Broadway.

12:42:09 10 Q. Right. And did they change that  
12:42:12 11 name eventually to Dryden Road?

12:42:13 12 A. Well, Dryden Road, they had a gate  
12:42:15 13 off of Dryden and it went into the south --  
12:42:22 14 south of the building.

12:42:23 15 Q. Okay. Let's show you a diagram.  
12:42:30 16 We're going to mark this as Fleckenstein  
12:42:56 17 Exhibit Number 1.

12:42:56 18 (Thereupon, Fleckenstein Exhibit  
12:42:56 19 Number 1 was marked for purposes of  
12:43:02 20 identification.)

12:43:02 21 Q. Bill, we were just looking at this  
12:43:04 22 before the deposition. Do you recognize this  
12:43:05 23 aerial photograph?

12:43:06 24 A. Pretty much so. Yes, sir.

12:43:08 25 Q. All right. I want you to do a



12:43:11 1 little drawing on it.

12:43:14 2 A. I don't know about that. I'm not  
12:43:17 3 much of an artist.

12:43:18 4 Q. Well, we're not going to be  
12:43:21 5 judging you by your artwork. Here's a pen.  
12:43:26 6 Can you mark --

12:43:29 7 MR. SILVER: And, Frank, if you want  
12:43:30 8 to come over and look at this.

12:43:31 9 Q. Can you mark where the Dayton  
12:43:34 10 Power and Light facility was?

12:43:36 11 A. (Witness complies with request.)  
12:43:43 12 This is it right along in here (indicating).  
12:43:47 13 I'm not -- no. I can't tell. Is this Broadway  
12:43:51 14 here (indicating) or is this Broadway  
12:43:54 15 (indicating)?

12:43:55 16 Q. Well, I can't testify for you.

12:43:59 17 A. You're not allowed to tell me.

12:44:00 18 Q. I can show you something that's a  
12:44:03 19 little clearer, if you want me to, if you're  
12:44:05 20 having trouble with that one. Okay. I'm  
12:44:38 21 marking Fleckenstein Exhibit Number 2.

12:44:38 22 (Thereupon, Fleckenstein Exhibit  
12:44:38 23 Number 2 was marked for purposes of  
12:44:40 24 identification.)

12:44:40 25 Q. This is another aerial photograph.

12:44:42 1 Take a look at that and see if it helps you  
12:44:44 2 locate what you're trying to locate.

12:45:15 3 (Pause in proceedings.)

12:45:15 4 Q. Bill, do you see in Exhibit 2  
12:45:16 5 where --

12:45:17 6 A. East River Road.

12:45:18 7 Q. Right. Bill, do you see in  
12:45:31 8 Exhibit 2 where Dryden Road is labeled?

12:45:34 9 A. Yes. I see where Dryden Road is.

12:45:36 10 Q. Yes.

12:45:44 11 A. I believe this is it here  
12:45:45 12 (indicating), Dayton Power and Light.

12:45:48 13 Q. Where don't you write DP&L where  
12:45:51 14 you think DP&L was.

12:45:57 15 A. (Witness complies with request.)

12:45:59 16 Q. Bill, do you -- have you ever  
12:46:01 17 heard the term service building?

12:46:03 18 A. I'm sorry?

12:46:05 19 Q. Have you ever heard the term  
12:46:07 20 service building?

12:46:07 21 A. Yes. I -- there was a business  
12:46:18 22 named Fleming that had trucks right across the  
12:46:22 23 road from us.

12:46:22 24 Q. From the DP&L service building?

12:46:25 25 A. Yeah. And then just south of that

12:46:29 1 was the entrance into the dump.

12:46:30 2 Q. What dump was this?

12:46:32 3 A. I can tell you who owned it.

12:46:45 4 Q. Who owned it?

12:46:46 5 A. A lawyer. I spoke too soon now.

12:46:54 6 Q. Take your time.

12:46:56 7 A. The fellow that stayed at the

12:47:01 8 dump, his name was Grillot.

12:47:02 9 Q. Do you recognize the name Lacine  
12:47:12 10 Grillot?

12:47:12 11 A. I just knew him by Grillot. I  
12:47:15 12 didn't know anything else. And the other  
12:47:18 13 fellow was a lawyer.

12:47:20 14 Q. We're going to have to take  
12:47:28 15 Nancy's deposition next.

12:47:31 16 A. His secretary stood up with my  
12:47:34 17 wife and I while we got married. What the heck  
12:47:37 18 was his name?

12:47:38 19 Q. Do you remember the name Boesch,  
12:47:43 20 B O E S C H?

12:47:47 21 A. Oh, Mr. Boesch. I believe that's  
12:47:51 22 his name.

12:47:51 23 Q. Do you remember the secretary's  
12:47:54 24 name who stood up with you for the wedding? I  
12:47:58 25 bet Nancy does.

12:47:59 1 A. Nancy does, but -- Treva.

12:48:09 2 MRS. FLECKENSTEIN: (Nods head up and  
12:48:09 3 down.)

12:48:09 4 Q. Treva. Okay. She's nodding her  
12:48:12 5 head yes.

12:48:13 6 A. That's about all I can tell you  
12:48:14 7 for now.

12:48:15 8 Q. So you went to work at the DP&L  
12:48:17 9 service building after the transfer from  
12:48:19 10 Monument Road; is that right?

12:48:20 11 A. Yes.

12:48:21 12 Q. Okay. And --

12:48:24 13 A. The whole company moved --

12:48:26 14 Q. And you moved into a brand-new  
12:48:28 15 building?

12:48:28 16 A. Yes.

12:48:28 17 Q. Then how long did you work for  
12:48:30 18 DP&L at the service building?

12:48:32 19 A. Twenty-eight years.

12:48:36 20 Q. Did you retire from DP&L?

12:48:39 21 A. No. I retired from DP&L in -- in  
12:48:46 22 Wilmington. I was -- they had a big shakeup,  
12:48:49 23 and I ended up down in Wilmington.

12:48:51 24 Q. Okay. Where is Wilming -- is it  
12:48:54 25 called Port Wilmington, did you say, or Fort

12:48:57 1 Wilmington? I didn't hear what you said.

12:49:00 2 A. No, Wilmington --

12:49:03 3 Q. Wilmington, Ohio?

12:49:06 4 A. -- Ohio, yes.

12:49:07 5 Q. And what kind of facility is down  
12:49:09 6 in Wilmington, Ohio?

12:49:11 7 A. Mostly maintenance people, worked  
12:49:14 8 on lines and when they still had gas at that  
12:49:18 9 time. I worked in the gas division at  
12:49:24 10 Wilmington.

12:49:25 11 Q. So when you -- just so I have it  
12:49:29 12 straight, from -- you moved into the service  
12:49:35 13 building on what is now Dryden Road when the  
12:49:37 14 building opened?

12:49:38 15 A. Dryden and South Broadway.

12:49:42 16 Q. South Broadway. Right. Did you  
12:49:44 17 ever hear it called Springboro, that same road?

12:49:48 18 A. Yeah. Springboro Pike. That  
12:49:51 19 sounds right.

12:49:52 20 Q. Okay. So you moved into the  
12:49:55 21 service building when it was brand-new.

12:49:57 22 A. Yes.

12:49:57 23 Q. And then you worked there for  
12:49:59 24 another twenty-eight years?

12:50:01 25 A. Yes. Twenty -- yeah, twenty-eight

12:50:04 1 years.

12:50:04 2 Q. And then you got transferred in a  
12:50:06 3 shakeup down to Wilmington?

12:50:08 4 A. I got transferred when they had a  
12:50:10 5 big blowup with certain people.

12:50:13 6 Q. It's all right. We won't get into  
12:50:17 7 all that.

12:50:17 8 A. I won't get into all that.

12:50:19 9 Q. I'm not interested in that. I'm  
12:50:22 10 more interested in when you worked at the  
12:50:26 11 service building.

12:50:27 12 A. I ended up in the gas division in  
12:50:30 13 Wilmington.

12:50:30 14 Q. How long of a drive is it down to  
12:50:33 15 Wilmington?

12:50:34 16 A. I'm sorry?

12:50:34 17 Q. How long of a drive is it down to  
12:50:37 18 Wilmington?

12:50:37 19 A. Four years.

12:50:38 20 Q. Oh, you were there four years in  
12:50:40 21 Wilmington?

12:50:40 22 A. Yeah.

12:50:40 23 Q. When did you move out to Xenia?

12:50:46 24 A. What is it, three or four years?

12:50:50 25 MRS. FLECKENSTEIN: It was eight.

12:50:51 1 THE WITNESS: Eight years.

12:50:52 2 Q. And before that you lived in  
12:50:53 3 Dayton?

12:50:54 4 A. Fairborn.

12:50:55 5 Q. Fairborn. Okay. Okay. You're  
12:50:59 6 doing great. All right.

12:51:05 7 So tell me where you were stationed  
12:51:06 8 when you moved into the service building.

12:51:09 9 A. Where was I stationed?

12:51:11 10 Q. Yeah. Within the building.

12:51:12 11 A. In the service?

12:51:15 12 Q. In the service building.

12:51:17 13 A. California.

12:51:18 14 MRS. FLECKENSTEIN: No. You  
12:51:20 15 misunderstood the question.

12:51:21 16 THE WITNESS: Yeah.

12:51:22 17 Q. I'll ask it again. When the  
12:51:24 18 service building opened up in 1955 or '56 --

12:51:29 19 A. Yes.

12:51:29 20 Q. -- you got transferred down there  
12:51:32 21 from Monument Road?

12:51:33 22 A. Yes, from Monument.

12:51:35 23 Q. So where were you stationed at the  
12:51:37 24 service building, your job station?

12:51:39 25 A. Around the back of the building.

12:51:43 1 Q. Uh-huh. That's all right. Do you  
12:51:45 2 remember what department that was?

12:51:46 3 A. That was overhead line department.

12:51:48 4 Q. Overhead line department. Okay.

12:51:51 5 A. Yeah. Let's see. I worked  
12:51:53 6 there -- I don't know how long. I forget. And  
12:51:58 7 then when I transferred into electric  
12:52:04 8 construction, it was toward the front of the  
12:52:05 9 building or the roadway. I call that the  
12:52:07 10 front.

12:52:08 11 Q. Along --

12:52:09 12 A. Where all the trucks parked.

12:52:12 13 Q. And you got transferred into which  
12:52:14 14 department?

12:52:15 15 A. Electric construction.

12:52:16 16 Q. Electric construction. And you  
12:52:18 17 were located in the front of the building along  
12:52:20 18 Broadway?

12:52:21 19 A. Yeah.

12:52:22 20 Q. Along Broadway, right?

12:52:24 21 A. Yes.

12:52:24 22 Q. All right. And how long -- how  
12:52:27 23 long was it after you moved into the Broadway  
12:52:32 24 service building did you get transferred into  
12:52:36 25 this new department overhead --



12:52:41 1 A. How long? I don't recall exactly  
12:52:44 2 how long.

12:52:44 3 Q. A year or two?

12:52:45 4 A. Oh, no. It was the next day or a  
12:52:50 5 couple days after.

12:52:51 6 Q. I see.

12:52:53 7 A. I do believe that. I'm not  
12:52:56 8 positive.

12:52:56 9 Q. That's all right. I'm just trying  
12:52:58 10 to get the background here. So how long did  
12:53:01 11 you work in electric construction?

12:53:05 12 A. Four or five years. Something  
12:53:18 13 like that.

12:53:18 14 Q. What did you do in electric  
12:53:20 15 construction?

12:53:20 16 A. Run a crane. Help construct the  
12:53:28 17 steel with the crane and things like that.

12:53:33 18 Q. Did you run the crane right at the  
12:53:35 19 service building area?

12:53:36 20 A. No. It was all over the Dayton  
12:53:41 21 Power and Light system.

12:53:42 22 Q. Were you building -- helping to  
12:53:45 23 build things?

12:53:45 24 A. I used to raise the iron up for  
12:53:51 25 the constructors, the electricians, whatever.

12:53:56 1 Q. Were they building substations or  
12:53:58 2 something else?

12:53:58 3 A. Yes, building substations. Help  
12:54:05 4 move transformers, big transformers, the  
12:54:10 5 rigging crew, things like that.

12:54:12 6 Q. And were you away for part of the  
12:54:19 7 day doing that?

12:54:20 8 A. Probably about six and a half,  
12:54:22 9 seven hours a day, depending upon how close it  
12:54:26 10 was.

12:54:26 11 Q. So in the morning, during that  
12:54:28 12 period of time, would you check into the  
12:54:30 13 service building in the morning?

12:54:31 14 A. Check in the service building.

12:54:33 15 Q. And then go out to some  
12:54:35 16 construction site?

12:54:36 17 A. Go out to some area, substation,  
12:54:38 18 and work.

12:54:39 19 Q. And then come back at the end of  
12:54:41 20 the day?

12:54:41 21 A. And come back at the end of the  
12:54:44 22 day, around 4:00.

12:54:44 23 Q. Then what time would you -- what  
12:54:48 24 time would you get off? Around 4:00?

12:54:51 25 A. 4:30.

12:54:53 1 Q. So you spent a little time at the  
12:54:55 2 beginning of the day and at the end of the day  
12:54:57 3 at the service building?

12:54:57 4 A. Yes, sir.

12:54:58 5 Q. That was typical during that  
12:54:59 6 period?

12:55:00 7 A. I'm sorry?

12:55:02 8 Q. Was that your typical day during  
12:55:04 9 that period?

12:55:04 10 A. Most of the time, yes. And then I  
12:55:08 11 spent four hours in Wilmington, Ohio in the gas  
12:55:13 12 division.

12:55:14 13 Q. When was that?

12:55:15 14 A. Oh, geez. I don't recall. I'm  
12:55:22 15 one that doesn't have a good idea of time.

12:55:25 16 Q. Okay. That's fine. Now, when you  
12:55:30 17 were working in electric construction, did you  
12:55:35 18 ever see a Dayton Power and Light like dump  
12:55:42 19 truck parked along --

12:55:43 20 A. On the south end of the building.

12:55:45 21 Q. South end of the building?

12:55:47 22 A. Yes, sir.

12:55:47 23 Q. Can you show me on that exhibit in  
12:55:50 24 front of you where you saw it parked? That's  
12:55:53 25 Exhibit 2, the one you're looking right at.

12:55:55 1 A. Well, if I can recall the other  
12:56:00 2 names of these, but that would be -- if this --  
12:56:12 3 okay. Yeah. It would be right here  
12:56:14 4 (indicating).

12:56:14 5 Q. Why don't you draw a circle, maybe  
12:56:17 6 just a little circle around it.

12:56:20 7 A. Okay. (Witness complies with  
12:56:21 8 request.)

12:56:21 9 Q. And why don't you write in dump  
12:56:24 10 truck. Or just DT. DT will do. That will  
12:56:29 11 make it easier.

12:56:30 12 A. (Witness complies with request.)  
12:56:34 13 I'm terrible.

12:56:35 14 Q. You're doing great. It's a work  
12:56:38 15 of art.

12:56:40 16 A. Sir?

12:56:40 17 Q. I said it's a work of art.

12:56:42 18 A. Yeah. If it gets you what you  
12:56:46 19 need.

12:56:46 20 Q. Exactly. So tell me -- tell me  
12:56:53 21 about the truck dump. Why was it there?

12:56:55 22 A. The dump truck was used mostly for  
12:57:02 23 material department. They would throw  
12:57:10 24 cardboard, maybe pallets, wooden pallets, in  
12:57:15 25 that. Now, when it was full, they took it over

12:57:22 1 to the dump.

12:57:22 2 Q. And what dump was that?

12:57:24 3 A. South Dayton.

12:57:25 4 Q. And show me on that same exhibit  
12:57:31 5 where the dump was. If you want to look at the  
12:57:38 6 bigger exhibit, Exhibit 1, yeah, why don't you  
12:57:40 7 do that.

12:57:41 8 A. This right here (indicating).

12:57:43 9 Q. Let the record reflect that the  
12:57:45 10 witness is looking at Exhibit 1. Why don't you  
12:57:48 11 draw a circle where you feel the dump was.

12:57:50 12 A. Where I see -- on the big one?

12:57:55 13 Q. In the big one. Yeah.

12:58:06 14 A. Okay. Oh, my gosh. (Witness  
12:58:16 15 complies with request.)

12:58:16 16 Q. Did you show me the dump?

12:58:18 17 A. It's right here (indicating).

12:58:19 18 Q. The dump truck? Is that the dump  
12:58:21 19 truck or the dump?

12:58:25 20 A. That's the dump truck  
12:58:28 21 (indicating). That's the dump (indicating).

12:58:29 22 Q. Why don't you circle where you  
12:58:32 23 just pointed to the dump.

12:58:33 24 A. You want me to circle here?

12:58:35 25 Q. I do.

12:58:36 1 A. (Witness complies with request.)

12:58:37 2 Q. And write in dump, D U M P.

12:58:41 3 A. Yeah. I can't even write anymore.

12:58:50 4 Q. You're doing pretty well. You're

12:58:54 5 getting into Picasso range now, Bill. You're

12:59:00 6 doing fine. Do you want to rest -- relax a

12:59:04 7 little or should we keep going?

12:59:06 8 A. Keep going. I want to get it over

12:59:08 9 with.

12:59:09 10 Q. Okay. We will do that. What are

12:59:12 11 you doing tomorrow?

12:59:13 12 A. I have no idea. I hope I'm not

12:59:16 13 here tomorrow.

12:59:16 14 Q. Definitely not.

12:59:21 15 All right. How do you know that the

12:59:23 16 dump truck went to the dump you just identified?

12:59:27 17 A. How do I know that?

12:59:29 18 Q. Yeah.

12:59:29 19 A. Walking up and down the area where

12:59:37 20 the trucks were parked, they had a walkway

12:59:42 21 where you put material in your truck, where

12:59:46 22 you're going out to the job. Storeroom.

12:59:51 23 Q. Right.

12:59:52 24 A. Okay? And you'd walk up and down.

12:59:55 25 I knew a lot of the fellows there. I know

13:00:00 1 you'd see them throwing the cardboard and crap  
13:00:03 2 in the truck when you were getting ready to go  
13:00:08 3 out to your job -- or my job.

13:00:11 4 Q. So when you were getting ready to  
13:00:12 5 go out to your job, you observed --

13:00:15 6 A. Yeah, I could just look in it. It  
13:00:18 7 was fairly high on the sides, but mostly --  
13:00:23 8 like I said, mostly cardboard. I don't know of  
13:00:27 9 anything else that they would put in that.

13:00:28 10 Q. Uh-huh. And let me ask you. What  
13:00:34 11 color was the dump truck?

13:00:35 12 A. You don't want me to tell you my  
13:00:38 13 version of it. It was brown.

13:00:40 14 Q. All right. I'll take it from  
13:00:43 15 there. I understand. And do you know how old  
13:00:47 16 the truck was?

13:00:49 17 A. No, I don't.

13:00:49 18 Q. Okay. Now, do you know any of the  
13:01:07 19 drivers that drove the dump truck?

13:01:09 20 A. I'm sorry?

13:01:11 21 Q. Do you know any of the drivers  
13:01:12 22 that drove --

13:01:13 23 A. I do not. They were furnished by  
13:01:18 24 the material department there.

13:01:19 25 Q. Now, you mentioned material

13:01:21 1 department. Have you ever heard of the stores  
13:01:23 2 department?

13:01:23 3 A. Well, yeah. Stores. Stores  
13:01:28 4 department.

13:01:28 5 Q. Is that the same or is that  
13:01:30 6 different than --

13:01:31 7 A. That's the same. That's the same.

13:01:34 8 Q. Do you remember who used to work  
13:01:36 9 with you that works in the stores department?

13:01:38 10 A. Oh, gosh. No, I -- Norman. The  
13:01:58 11 only way I know him, they call him Jughead  
13:02:01 12 normally. And, of course, he's probably gone  
13:02:04 13 by now.

13:02:05 14 Q. Any other names?

13:02:07 15 A. Not that I can recall right  
13:02:17 16 offhand.

13:02:18 17 Q. Do you remember a Jim South?

13:02:20 18 A. Jim South? I know Jim South.  
13:02:22 19 He's a good boy.

13:02:23 20 Q. Yeah. He's still around, right?

13:02:25 21 A. Yes, sir.

13:02:26 22 Q. Did he work in stores?

13:02:27 23 A. He may have worked in stores and  
13:02:31 24 then I'm not positive. I'm not saying it -- he  
13:02:38 25 may have worked in stores and then went to



13:02:40 1 electric construction.

13:02:40 2 Q. Okay. Any other names come to  
13:02:43 3 mind from stores?

13:02:44 4 A. From stores?

13:02:45 5 Q. Yeah.

13:02:53 6 A. No, not really.

13:02:54 7 Q. If you think of any while we're  
13:02:57 8 talking, just volunteer. Let me know. Also,  
13:02:59 9 if you have a picture in mind of anyone who  
13:03:01 10 drove that truck, the dump truck, I'd be real  
13:03:04 11 interested in knowing their names, too.

13:03:09 12 Well, when that truck was moved, it  
13:03:11 13 was moved while I was away from the building. And  
13:03:14 14 I don't know. I'll be honest. I don't know.

13:03:17 15 Q. During the day when you were away  
13:03:19 16 from the building?

13:03:20 17 A. Yeah, when I was away from the  
13:03:22 18 building.

13:03:22 19 Q. Do you know if that truck was  
13:03:24 20 ever -- you mentioned that it was parked at the  
13:03:26 21 south end of the dock; is that -- it --

13:03:30 22 A. Of the dock.

13:03:30 23 Q. I guess that would be the west  
13:03:32 24 dock?

13:03:32 25 A. Yes.

13:03:33 1 Q. Do you know if it was ever parked  
13:03:37 2 in -- did you ever see it parked in other  
13:03:39 3 locations at the service building?

13:03:41 4 A. If it was, I don't recall.

13:03:43 5 Q. Maybe the south -- perhaps the  
13:03:46 6 south -- the south end of the east dock? Do  
13:03:48 7 you have any memory of it being parked there?

13:03:54 8 A. No, I don't recall.

13:03:55 9 Q. Do you remember ever seeing a  
13:03:57 10 dumpster at the south end of the west dock or  
13:04:00 11 the south end of the east dock?

13:04:03 12 A. Yes. And that was mostly for  
13:04:05 13 metal.

13:04:05 14 Q. And where was it? Which dock?

13:04:07 15 A. At the west side dock, west dock.

13:04:11 16 Q. Same -- same vicinity?

13:04:13 17 A. Same location as the dump truck.  
13:04:16 18 About in that same area.

13:04:18 19 Q. And can you tell, was it mostly --  
13:04:20 20 do you know the size of that dumpster?

13:04:23 21 A. No, I can't tell you.

13:04:24 22 Q. Length of it?

13:04:25 23 A. It wasn't a big dumpster. Most of  
13:04:34 24 the time they didn't have a whole lot of metal  
13:04:36 25 to throw away, I didn't think.

13:04:39 1 Q. Where did the metals come from?

13:04:41 2 A. Used tools. Out-of-date metal,  
13:04:53 3 things like that.

13:04:54 4 Q. Where did that come from, out of  
13:04:57 5 the stores kept?

13:04:58 6 A. Well, it was probably things that  
13:04:59 7 the line department brought in from a job or  
13:05:02 8 something like that.

13:05:06 9 Q. And did you see that -- does that  
13:05:08 10 dumpster go way back to when you first started  
13:05:12 11 working at the service building?

13:05:14 12 A. Oh, yeah, it was there when I  
13:05:16 13 worked there.

13:05:16 14 Q. And do you know where the -- who  
13:05:18 15 picked up the materials in the dumpster?

13:05:22 16 A. I have no idea who picked that up.

13:05:26 17 Q. Or where it went?

13:05:27 18 A. I don't recall who did that.

13:05:28 19 Q. Did you see any dumpsters on the  
13:05:34 20 service building property?

13:05:41 21 A. No, I don't.

13:05:41 22 Q. Do you know where the garage was?  
13:05:49 23 Can you show me on -- well, let's look at  
13:05:51 24 Exhibit 2 to begin with. Can you identify  
13:05:54 25 where the garage was? If you're having

13:06:10 1 trouble, let me know because we can get you a  
13:06:13 2 better photo. Just put a G next to that so we  
13:06:16 3 know what you're referring to. Let the record  
13:06:18 4 reflect that he's marking the location of the  
13:06:21 5 garage on Exhibit 2.

13:06:22 6 A. I'm sorry?

13:06:24 7 Q. I was just talking to the court  
13:06:25 8 reporter. Okay. Was there a dumpster near the  
13:06:28 9 garage?

13:06:28 10 A. Honestly, I don't recall.

13:06:38 11 Q. Was there a dumpster at the end of  
13:06:40 12 the east -- do you know where the east dock  
13:06:42 13 was?

13:06:42 14 A. Yes.

13:06:43 15 Q. Was there a dumpster at the south  
13:06:45 16 end of the east dock?

13:06:47 17 A. I don't recall honestly.

13:06:58 18 Q. Do you recall any other dumpsters  
13:07:00 19 on the --

13:07:01 20 A. On the property?

13:07:02 21 Q. Yeah.

13:07:02 22 A. No, I don't recall any.

13:07:04 23 Q. Now, where we left off, you were  
13:07:06 24 working in electric construction. Did you --  
13:07:14 25 did you continue to work in electric

13:07:17 1 construction for the rest of your time?

13:07:18 2 A. No, sir.

13:07:19 3 Q. Where did you go after electric  
13:07:22 4 construction?

13:07:22 5 A. After I left electric  
13:07:24 6 construction, I was forced to move to  
13:07:27 7 Wilmington, Ohio.

13:07:28 8 Q. So you were in electric  
13:07:31 9 construction until you went to Wilmington?

13:07:33 10 A. Yes.

13:07:33 11 Q. And that was what, after  
13:07:35 12 twenty-eight years at the service building?

13:07:38 13 A. About twenty-eight years, yes.  
13:07:41 14 And four years at Wilmington.

13:07:43 15 Q. Did you ever work as a blacksmith  
13:08:06 16 at DP&L?

13:08:07 17 A. Yes.

13:08:07 18 Q. Okay. We forgot to -- we hadn't  
13:08:12 19 talked about that yet.

13:08:13 20 A. That was -- I'm sorry. That  
13:08:16 21 was -- that was in between leaving electric  
13:08:21 22 construction and going to Wilmington. That was  
13:08:23 23 in between. That was three or four years.

13:08:26 24 Q. And was that right at the service  
13:08:28 25 building?

13:08:28 1 A. Yeah, right at the service  
13:08:30 2 building.

13:08:30 3 Q. Did DP&L at some point move out --  
13:08:42 4 stop having a blacksmith shop at the service  
13:08:45 5 building?

13:08:45 6 A. They -- they decided they wanted  
13:08:53 7 that area for some office -- offices.

13:08:56 8 Q. And if you look at Exhibit 2, that  
13:09:01 9 exhibit right in front of you, Bill, Exhibit 2,  
13:09:04 10 can you draw a little circle around where the  
13:09:13 11 blacksmith office was -- a blacksmith shop was?  
13:09:16 12 I'm sorry.

13:09:17 13 A. Okay. It was -- it was right in  
13:09:26 14 that corner (indicating).

13:09:26 15 Q. Put a B in there.

13:09:28 16 A. (Witness complies with request.)

13:09:29 17 Q. So you were at the south end of  
13:09:31 18 the east dock? Is that where the blacksmith  
13:09:34 19 shop was?

13:09:35 20 A. The east side of the building.

13:09:37 21 Q. Uh-huh. Okay.

13:09:40 22 A. On the back dock. Then the back  
13:09:43 23 dock, they had transformer place where they  
13:09:47 24 repaired transformers in this same -- about the  
13:09:50 25 same area. Then they also had a wood shop in

13:09:55 1 that same area as the blacksmith shop.

13:09:57 2 Q. So there was a wood shop and  
13:10:00 3 transformer repair shop close to where you were  
13:10:03 4 working as blacksmiths?

13:10:04 5 A. It was actually called a  
13:10:06 6 maintenance -- maintenance department.

13:10:08 7 Q. How is it that you ended up moving  
13:10:15 8 from electric construction to blacksmith?

13:10:17 9 A. Well, at the time I was getting a  
13:10:20 10 little older and I wanted to get inside. And I  
13:10:27 11 had a little experience -- the days it rained,  
13:10:32 12 sometimes we stayed at the building and I'd  
13:10:40 13 always go back and look and watched the  
13:10:42 14 blacksmith. That's how I learned.

13:10:43 15 Q. You enjoyed watching the  
13:10:45 16 blacksmith?

13:10:46 17 A. I enjoyed a whole lot. That was  
13:10:48 18 one of the most rewarding jobs I ever had.

13:10:50 19 Q. Why would you say that?

13:10:52 20 A. Why do I say that?

13:10:54 21 Q. Yeah.

13:10:54 22 A. Because if you made a mistake, it  
13:10:56 23 was your fault and not nobody else's.

13:10:59 24 Q. I understand.

13:11:03 25 A. You understand that, too.

13:11:04 1 Q. I do. Yeah. I make a lot of  
13:11:07 2 mistakes. I blame her.

13:11:12 3 A. Well, it was one of the most  
13:11:14 4 enjoyable jobs I ever had.

13:11:16 5 Q. Good. How many years did you work  
13:11:18 6 in the blacksmith shop?

13:11:19 7 A. Let's see. Probably -- I'm going  
13:11:25 8 to guess about three to four years.

13:11:27 9 Q. I'm just wondering, when you were  
13:11:29 10 working the blacksmith shop, was DP&L still  
13:11:33 11 operating that dump truck we talked about  
13:11:36 12 earlier?

13:11:36 13 A. As far as I know, yes.

13:11:39 14 Q. Did you ever see the dump truck on  
13:11:47 15 the blacksmith side of the building?

13:11:47 16 A. No.

13:11:50 17 Q. Always on the west dock?

13:11:51 18 A. Yes.

13:11:51 19 Q. And was there any other -- did  
13:11:55 20 DP&L run any other dump trucks, other than the  
13:11:59 21 one you saw on the west dock?

13:12:01 22 A. Well, the gas division did a lot  
13:12:04 23 of them, but they didn't have that high of  
13:12:08 24 sides, were four or five foot high, see. Now,  
13:12:11 25 the ones on the west side -- and you know those



13:12:20 1 were just normal dump trucks with front end  
13:12:24 2 loaders or no kind of loader on them.

13:12:27 3 Q. Okay. So -- so just to make sure  
13:12:31 4 that I have it straight, the dump truck that  
13:12:33 5 was parked on the west dock had four or five  
13:12:37 6 foot high sides?

13:12:38 7 A. Yeah. They were higher side  
13:12:41 8 boards on them because they hauled probably  
13:12:44 9 just cardboard from material department, stores  
13:12:47 10 department.

13:12:47 11 Q. Then the gas station you said had  
13:12:54 12 dump trucks without the sides on both?

13:12:58 13 A. Yeah. Normal sides on a dump  
13:13:01 14 truck.

13:13:01 15 Q. Some with front-end loaders?

13:13:03 16 A. Yes.

13:13:03 17 Q. What did the gas division put in  
13:13:07 18 the -- in those dump trucks with the lower  
13:13:10 19 sides?

13:13:11 20 A. Dirt. Just dirt that they dug up  
13:13:14 21 if they couldn't -- sometimes they didn't get a  
13:13:18 22 hole filled up all the way or they did get it  
13:13:21 23 filled up and they had excess dirt.

13:13:26 24 Q. Now, this would be dirt from when  
13:13:29 25 they're out working on the --

13:13:31 1 A. On a job.

13:13:33 2 Q. On a job out on the streets  
13:13:35 3 somewhere?

13:13:36 4 A. Yeah.

13:13:36 5 Q. And what about the gas division's  
13:13:40 6 trucks, dump trucks with the front-end loaders,  
13:13:43 7 what would those pick up?

13:13:44 8 A. I'm sorry?

13:13:46 9 Q. What about the gas construction  
13:13:50 10 with the dump front-end loaders, what would  
13:13:54 11 those trucks pick up?

13:13:56 12 A. Dirt. Just flip back over and go  
13:14:01 13 back to the bed.

13:14:01 14 Q. Was the gas division -- how many  
13:14:04 15 trucks -- dump trucks did the gas division  
13:14:07 16 have?

13:14:08 17 A. Oh, I couldn't tell you.

13:14:09 18 Q. Well, let me ask you --

13:14:11 19 A. Half a dozen maybe.

13:14:13 20 Q. Half a dozen?

13:14:14 21 A. I'm guessing at that.

13:14:15 22 Q. You're approximating?

13:14:17 23 A. Yes. Approximate.

13:14:18 24 Q. And you observed these trucks when  
13:14:20 25 you were at the service -- I'm sorry -- the

13:14:23 1 service --

13:14:24 2 A. I observed them.

13:14:24 3 Q. You saw them?

13:14:25 4 A. Yes.

13:14:26 5 Q. Eyewitness. You actually saw  
13:14:28 6 them?

13:14:28 7 A. Yes. They would be backed up to  
13:14:30 8 the dock or be out in the south yard where they  
13:14:36 9 parked excess vehicles.

13:14:37 10 Q. Okay.

13:14:38 11 A. Okay?

13:14:39 12 Q. Do you know how other waste from  
13:14:50 13 the service building got picked up for  
13:14:53 14 disposal?

13:14:53 15 A. Not that I can recall.

13:14:59 16 Q. So far you mentioned the dump  
13:15:02 17 truck on the south --

13:15:03 18 A. Well, they would -- if somebody  
13:15:08 19 wanted some dirt, they'd dump it on a different  
13:15:11 20 property. What they did with the excess dirt,  
13:15:16 21 I couldn't tell you all of it, no.

13:15:18 22 Q. What about office trash coming out  
13:15:24 23 of the service building? How did that get  
13:15:26 24 picked up and disposed of?

13:15:28 25 A. I have no idea about that.

13:15:29 1 Q. So you don't know what -- what the  
13:15:32 2 vehicle was that picked that up?

13:15:34 3 A. I couldn't tell you for sure.

13:15:43 4 Q. What about from the blacksmith  
13:15:45 5 shop, if you had anything to throw away, where  
13:15:48 6 would that go?

13:15:48 7 A. Most of the time there wasn't  
13:15:51 8 nothing you would throw away except the burnt  
13:15:55 9 coal.

13:15:55 10 Q. What would you do with that?

13:15:56 11 A. They had a container I put it in.  
13:16:00 12 Where it went, I don't know. Whether it went  
13:16:03 13 over to the dump or not, I don't know.

13:16:06 14 Q. Did you pick up the container and  
13:16:08 15 take it somewhere?

13:16:09 16 A. No, sir.

13:16:10 17 Q. And do you know who did that?

13:16:11 18 A. I have no idea.

13:16:13 19 Q. Somebody from maintenance,  
13:16:15 20 perhaps?

13:16:15 21 A. Probably -- could have been -- we  
13:16:21 22 did have a dumpster out back, too. Throw it in  
13:16:25 23 the dumpster. Most of the time you didn't have  
13:16:28 24 much ash left. It's pretty well burnt up.

13:16:32 25 Q. In the blacksmith shop?

13:16:34 1 A. Yes.

13:16:34 2 Q. Now, you mentioned a dumpster out  
13:16:38 3 back.

13:16:39 4 A. It was outside the back of the  
13:16:41 5 transformer shop.

13:16:42 6 Q. Okay. Can you show me where that  
13:16:46 7 was on the --

13:16:46 8 A. Oh, God.

13:16:47 9 Q. Well, before we do that, can you  
13:16:50 10 find --

13:16:50 11 A. Well, transformer shop -- I think  
13:16:53 12 I might have this wrong.

13:16:54 13 Q. Yeah, I was thinking that, too.

13:16:56 14 A. And I do. Do you want to correct  
13:17:01 15 it. How do I correct this?

13:17:05 16 Q. You just cross it out if you think  
13:17:07 17 that's not right. But show me first where you  
13:17:10 18 think the blacksmith shop could have been.

13:17:13 19 A. Okay. I got you here on this  
13:17:17 20 corner.

13:17:17 21 Q. Put a B next to that.

13:17:19 22 A. (Witness complies with request.)  
13:17:19 23 And then the transformer shop was in -- was in  
13:17:23 24 this area (indicating). And the carpenter shop  
13:17:26 25 was in there (indicating).

13:17:27 1 Q. All right. I'm going to ask you  
13:17:29 2 to do something complicated. Put a T anywhere  
13:17:32 3 you think the transformer shop is, if you can.

13:17:41 4 A. (Witness complies with request.)

13:17:42 5 Q. Put a B where you think the  
13:17:44 6 blacksmith shop is and a C where you think  
13:17:47 7 where the carpentry shop was.

13:17:50 8 A. (Witness complies with request.)

13:17:51 9 Q. Okay. Then cross out the old B if  
13:17:54 10 you don't think that's where the blacksmith  
13:17:56 11 shop is.

13:17:57 12 A. This here (indicating)?

13:18:00 13 Q. Yes.

13:18:00 14 A. Yes, that was still part of the  
13:18:03 15 stores department.

13:18:03 16 Q. Okay. We're getting ourselves  
13:18:05 17 straight.

13:18:06 18 A. I'm kind of old, you know.

13:18:08 19 Q. No, you're not. You fooled me.

13:18:15 20 A. I remember some of it. I don't  
13:18:16 21 remember it all.

13:18:17 22 Q. That's all right. You're doing  
13:18:19 23 very well. Have you heard of the oil house?

13:18:21 24 A. Oil house. That's the --

13:18:24 25 Q. Why don't you circle the oil house

13:18:26 1 on Exhibit 2. And just put an OH next to it.

13:18:31 2 A. (Witness complies with request.)

13:18:37 3 Q. So now you got your bearings,  
13:18:40 4 right?

13:18:40 5 A. I hope. But my bearings could get  
13:18:45 6 all balled up. I'm not supposed to put that in  
13:18:48 7 there.

13:18:49 8 Q. That's all right. That's a little  
13:18:50 9 humor. It's a joke about ball bearings, if I  
13:18:56 10 got it correctly.

13:18:58 11 You mentioned a dumpster outside  
13:19:00 12 the transformer shop.

13:19:02 13 A. Yes.

13:19:02 14 Q. Can you show me where -- maybe  
13:19:07 15 we'll use a different color. Let's use a blue  
13:19:14 16 here.

13:19:16 17 MRS. FLECKENSTEIN: Pay attention.

13:19:17 18 THE WITNESS: Excuse me?

13:19:18 19 Q. We're going to use a brown marker  
13:19:20 20 this time. The same color as the dump truck.  
13:19:38 21 Let the record reflect that the exhibit is  
13:19:42 22 marked in brown, the location of the dumpster.  
13:19:44 23 Is that right, Bill?

13:19:45 24 A. Sir?

13:19:46 25 Q. Did you just mark the location of

13:19:49 1 the dumpster outside the transformer shop?

13:19:51 2 A. Well, sort of.

13:19:52 3 Q. What do you mean by sort of?

13:19:54 4 A. The transformer shop is here

13:19:56 5 (indicating), they had a crane here

13:19:57 6 (indicating), oil house (indicating) and a

13:19:58 7 dumpster (indicating) and then a coal bin of --

13:20:02 8 of -- up there on the dock (indicating).

13:20:03 9 Q. Is that where the coal from the  
13:20:05 10 blacksmith shop went?

13:20:06 11 A. Yes.

13:20:07 12 Q. And there's a dumpster right next  
13:20:09 13 to it?

13:20:11 14 A. No. It was off of the dock.

13:20:12 15 Q. And what else -- first, what went  
13:20:16 16 into that coal bin was strictly coal?

13:20:19 17 A. Yes.

13:20:19 18 Q. And where did that get trucked off  
13:20:22 19 to, do you know?

13:20:23 20 A. Where did it get what?

13:20:27 21 Q. Maybe I'm -- maybe I have it --  
13:20:30 22 I'm assuming.

13:20:30 23 A. It was up against the wall.

13:20:33 24 Q. Did it just stay there forever or  
13:20:36 25 at some point did it get emptied out is my



13:20:39 1 question?

13:20:39 2 A. Right.

13:20:40 3 Q. We're talking about the coal bin.

13:20:41 4 At some point, did it get emptied out and taken  
13:20:45 5 somewhere?

13:20:45 6 A. That I couldn't tell you. When I  
13:20:51 7 left, it was still there.

13:20:52 8 Q. Did it keep getting filled?

13:20:54 9 A. I tried to get it to take home,  
13:20:57 10 but they wouldn't let me.

13:20:59 11 Q. What about that dumpster? What  
13:21:06 12 went in that dumpster outside the transformer  
13:21:11 13 shop?

13:21:11 14 A. Anything that they couldn't fix.

13:21:13 15 Q. When you say anything, you mean  
13:21:16 16 including transformers?

13:21:17 17 A. I'm sorry?

13:21:18 18 Q. You mean including broken  
13:21:20 19 transformers?

13:21:20 20 A. No. No. No.

13:21:22 21 Q. Go ahead.

13:21:24 22 A. The transformers that they junked,  
13:21:28 23 there was a black gentleman and a friend of his  
13:21:32 24 that picked them up on a truck. What he did  
13:21:35 25 with them, I'm not positive. But I was told

13:21:38 1 that he took them out to the old Dayton Rubber.  
13:21:43 2 And that's where he tore them apart for the  
13:21:46 3 copper out of them. If I'm right, he dumped --  
13:21:50 4 whatever oil was in them was dumped in there.

13:21:54 5 Q. Do you remember the name of the  
13:21:56 6 black gentleman?

13:21:57 7 A. No. I never knew his name.

13:21:58 8 Q. He had somebody he worked with on  
13:22:01 9 that?

13:22:01 10 A. Some other black gentleman helped  
13:22:04 11 them load the junk transformers.

13:22:07 12 Q. What kind of truck did they  
13:22:11 13 operate?

13:22:11 14 A. An old Ford. Racks on the back.  
13:22:15 15 Probably a ton and a half truck.

13:22:17 16 Q. How many tons was the DP&L truck  
13:22:21 17 on the west -- at the bottom of the west dock?

13:22:24 18 A. Now, run that by me again.

13:22:26 19 Q. I'm sorry.

13:22:27 20 A. I'm sorry.

13:22:28 21 Q. I'm switching back to the brown  
13:22:30 22 truck that --

13:22:31 23 A. The dump truck?

13:22:32 24 Q. Yeah. How many tons was that?

13:22:34 25 A. How many tons was that?

13:22:36 1 Q. Yeah.

13:22:37 2 A. Boy, I don't know.

13:22:38 3 Q. Okay. Either one. I thought you

13:22:41 4 might know the answer.

13:22:43 5 A. Just whatever a dump truck weighs,

13:22:46 6 I guess.

13:22:46 7 Q. Sure. And so there were two black

13:22:52 8 gentlemen that ran the dump truck with the

13:22:54 9 broken transformers, right?

13:22:55 10 A. No, that wasn't a dump truck.

13:22:57 11 Q. No, we're going back to the

13:22:59 12 transformer shop now.

13:23:01 13 A. That was probably a two ton truck.

13:23:03 14 Q. What color?

13:23:04 15 A. Probably had about a twelve- or

13:23:07 16 fourteen-foot bed on it.

13:23:08 17 Q. Do you remember what color it was?

13:23:12 18 A. No, I don't remember that.

13:23:13 19 Q. Do you remember how often the --

13:23:17 20 A. That I can't tell you either.

13:23:18 21 Q. You couldn't remember how many --

13:23:21 22 or how often they made runs?

13:23:21 23 A. No.

13:23:24 24 Q. Do you know what -- did you see

13:23:26 25 them from the beginning of your time at the

13:23:29 1 service building?

13:23:30 2 A. Yeah. Whenever I was in that area  
13:23:34 3 and when I was in the blacksmith shop.

13:23:38 4 Q. You'd observe them occasionally?

13:23:40 5 A. Yes. I'd be in and out of the  
13:23:45 6 back dock there. What for, I don't know. I  
13:23:52 7 may have went out there to smoke a cigarette  
13:23:54 8 when I smoked. But I don't recall everything.

13:23:57 9 Q. Sure. That's okay. Who worked in  
13:24:00 10 woodworking?

13:24:02 11 A. One of them. One I know most is  
13:24:14 12 Mike Moody. He's since passed away. Bob Long.  
13:24:27 13 He lived in Covington. There was another black  
13:24:33 14 gentleman that worked in -- I can't think of  
13:24:36 15 his name.

13:24:36 16 Q. And blacksmith, were you all by  
13:24:41 17 yourself in --

13:24:42 18 A. Yeah. I worked all by myself.

13:24:45 19 Q. And you -- but you used to hang  
13:24:48 20 out there when you said it was raining to  
13:24:52 21 watch --

13:24:53 22 A. Well, that was when I was in  
13:24:55 23 electric construction. I would go back and  
13:24:57 24 watch the other blacksmith.

13:24:59 25 Q. And who was that?

13:25:00 1 A. I can't tell you his name. He was  
13:25:02 2 a -- he come out of the coal country. He did a  
13:25:06 3 lot of their air hammerbits and things like  
13:25:10 4 that to sharpen them. He was a good old guy  
13:25:23 5 and home boy, really. It just doesn't come to  
13:25:29 6 me.

13:25:29 7 Q. If it comes to you, just let me  
13:25:31 8 know.

13:25:32 9 A. Okay.

13:25:32 10 Q. Now, when you were working in  
13:25:34 11 blacksmith, the blacksmith shop, what were you  
13:25:37 12 making or repairing and doing and for whom at  
13:25:41 13 DP&L?

13:25:42 14 A. Doing mostly the same special  
13:25:52 15 tools, days that they open and close the gas  
13:25:59 16 tops. Different tools that need to be fixed,  
13:26:03 17 repaired. Shovel handles. That's -- it's a  
13:26:09 18 lot of things. I just don't recall all of it.

13:26:12 19 Q. Did you on occasion walk to the  
13:26:22 20 transformer shop next to the blacksmith shop?

13:26:26 21 A. I never hung out there.

13:26:27 22 Q. Never even walked through?

13:26:29 23 A. I walked through. When you had  
13:26:31 24 lunch, you had to walk by that side but most of  
13:26:34 25 it was behind you when you walked through. And

13:26:37 1 the restroom was in that area, too.

13:26:39 2 Q. What about when you left for the  
13:26:44 3 day or came in in the morning? Would you have  
13:26:47 4 to walk through the transformer shop?

13:26:49 5 A. Yes.

13:26:49 6 Q. How many people would you see  
13:26:57 7 working in the transformer shop?

13:26:59 8 A. Maybe three to four. Just depend  
13:27:02 9 on how busy they were. They also had a crane  
13:27:09 10 bay that they did the big transformers launched  
13:27:14 11 from substations and all that where they had to  
13:27:18 12 do some work on them.

13:27:20 13 Q. And was that crane bay right next  
13:27:24 14 to the transformer maintenance shop?

13:27:26 15 A. Yeah. It was all one big area.

13:27:28 16 Q. So three or four people would be  
13:27:30 17 there at once, would you say?

13:27:32 18 A. Yes, but I can't -- I don't recall  
13:27:37 19 all their names. And they had a paint booth in  
13:27:40 20 there, too, in that same area that they painted  
13:27:44 21 the transformers if they needed to paint.

13:27:46 22 Q. Sure. Do you know approximately  
13:27:51 23 how many transformers they'd be working on at a  
13:27:54 24 time?

13:27:55 25 A. No, I couldn't tell you that.

13:27:56 1 Q. But sometimes big ones and  
13:27:58 2 sometimes small ones?

13:27:59 3 A. Well, the big ones, it wasn't very  
13:28:03 4 often. But the small ones that were out in the  
13:28:06 5 residential area, there was three to four  
13:28:09 6 people working on transformers.

13:28:11 7 Q. Sure.

13:28:12 8 A. And then they had one of the  
13:28:14 9 fellows do the rest of them, make sure they  
13:28:17 10 were correct.

13:28:18 11 Q. So they had a test strip after  
13:28:21 12 they were repaired?

13:28:22 13 A. Sir?

13:28:24 14 Q. They had somebody to test them  
13:28:25 15 after they were repaired?

13:28:27 16 A. Yes. Yes. That was in the back,  
13:28:31 17 towards the back dock, just inside the back  
13:28:36 18 door or the dock.

13:28:37 19 Q. Well, you mentioned that you can't  
13:28:40 20 remember all their names. Do you remember any  
13:28:43 21 of the names of the employees in transformers?

13:28:49 22 A. No.

13:28:50 23 Q. If you think of any, just shout  
13:28:53 24 them out.

13:28:54 25 A. I can't think of the one

13:28:56 1 gentleman's name, the one that was a carpentry.

13:29:07 2 MR. SILVER: Are you okay? Is it  
13:29:08 3 time for a break, Nancy?

13:29:10 4 MRS. FLECKENSTEIN: Yeah, I think so.

13:29:15 5 (Thereupon, a break was had.)

13:44:13 6 Q. Bill, I'm going to go back to that  
13:44:15 7 brown dump truck that was parked at the end of  
13:44:23 8 the west dock.

13:44:23 9 A. Yeah, I remember it. But I don't  
13:44:26 10 know what else you're trying to get me to put  
13:44:28 11 in.

13:44:29 12 Q. I'm just asking how you knew it  
13:44:32 13 went across the street to the dump that you  
13:44:34 14 marked?

13:44:34 15 A. How I know that? I mean,  
13:44:38 16 sometimes you stand around when you're not real  
13:44:41 17 busy and you watch things, you know. You watch  
13:44:44 18 them going up South Dayton, go over -- that's  
13:44:48 19 the way only I can tell you.

13:44:51 20 Q. Just from what you saw, is that  
13:44:54 21 what you're saying?

13:44:55 22 A. Huh?

13:44:58 23 Q. Just from what you saw, is that  
13:44:59 24 what you're saying?

13:45:00 25 A. Yeah.



13:45:01 1 Q. Back to the transformer shop. You  
13:45:03 2 mentioned a paint booth. The paint booth in  
13:45:07 3 the transformer shop?

13:45:08 4 A. Yes.

13:45:09 5 Q. Who ran that paint booth?

13:45:11 6 A. I cannot recall any of their  
13:45:14 7 names. I didn't -- I just didn't recall their  
13:45:26 8 names. That's all.

13:45:27 9 Q. That's all right. Was it the  
13:45:29 10 people that worked in the transformer shop that  
13:45:32 11 also ran the paint booth?

13:45:33 12 A. Run the what?

13:45:36 13 Q. Did the people that you mentioned,  
13:45:38 14 the three or four people that worked in the  
13:45:40 15 transformer shop --

13:45:41 16 A. Yes.

13:45:42 17 Q. -- did they also run the paint  
13:45:45 18 booth in the transformer shop?

13:45:46 19 A. No, it was a different painter.  
13:45:48 20 They had a painter.

13:45:49 21 Q. Special painter?

13:45:50 22 A. Yes. As a matter of fact, they  
13:45:54 23 had two of them, but one of them retired.  
13:45:57 24 Another one ended up with lead poison. I can't  
13:46:02 25 think of his last name. His first name was

13:46:05 1 Tom, but I can't think of his last name.

13:46:08 2 Q. Is he still alive?

13:46:09 3 A. I don't know.

13:46:12 4 Q. What about the one that retired,  
13:46:14 5 do you know if he's still alive?

13:46:16 6 A. I doubt if he is. I doubt if he  
13:46:18 7 is because he retired a long time after I was  
13:46:21 8 still there.

13:46:21 9 Q. Do you know whether there are any  
13:46:25 10 other paint booths at the DP&L service  
13:46:28 11 building?

13:46:28 12 A. In the garage.

13:46:29 13 Q. They had one in the garage?

13:46:30 14 A. Yeah. They painted trucks.

13:46:34 15 Q. Uh-huh. Do you know if there was  
13:46:38 16 a different painter who ran the one in the  
13:46:41 17 garage?

13:46:41 18 A. Uh-huh. Different painters run  
13:46:45 19 both of them.

13:46:46 20 Q. There was different painters for  
13:46:49 21 each one, right?

13:46:49 22 A. Yes.

13:46:50 23 Q. Do you remember the names of the  
13:46:53 24 ones -- the painters in the paint booth in the  
13:46:58 25 garage?

13:46:58 1 A. He was a big black gentleman. He  
13:47:09 2 would paint a truck, and he was the only one  
13:47:12 3 that was allowed to have whiskey in the whole  
13:47:15 4 outfit. And he --

13:47:20 5 Q. That's all right. I'm interested  
13:47:22 6 in whiskey. Come on.

13:47:28 7 A. He would take a drink, but he  
13:47:31 8 never got inebriated. But he said that cuts  
13:47:37 9 the pain down his throat. I mean, it helped  
13:47:40 10 clear his throat from breathing the paint  
13:47:42 11 fumes. Now, he did wear a mask, but you know  
13:47:46 12 how masks are. They don't fit right half the  
13:47:51 13 time. And that's it.

13:47:51 14 Q. You can't remember his name, can  
13:47:53 15 you?

13:47:53 16 A. Now, I can recall one of the  
13:48:05 17 carpenters. Brownell. But his first name, I  
13:48:10 18 didn't know.

13:48:11 19 Q. Do you know if he's still alive?

13:48:13 20 A. I couldn't tell you.

13:48:14 21 Q. All right. You see there, they're  
13:48:19 22 coming back a little bit. So the paint booth  
13:48:21 23 in the transformer shop, do you know how that  
13:48:29 24 got cleaned up?

13:48:29 25 A. I have no idea. It was probably

13:48:32 1 cleaned up after I left to go to Wilmington.

13:48:35 2 That's the only thing I know.

13:48:37 3 Q. Even on a daily basis --

13:48:40 4 A. No.

13:48:41 5 Q. -- scraped up or how about the  
13:48:43 6 paint guns, did they have to be cleaned?

13:48:44 7 A. Oh, yes.

13:48:45 8 Q. How did that happen?

13:48:46 9 A. I have no idea. I imagine they  
13:48:50 10 had some kind of paint cleaner.

13:48:52 11 Q. Right.

13:48:57 12 A. They did have a spray booth that  
13:49:01 13 was water operated and when they sprayed, the  
13:49:07 14 excess went in and out and it went clean  
13:49:10 15 through the water.

13:49:11 16 Q. Did it go to some sort of a drum  
13:49:15 17 or a tank?

13:49:15 18 A. I'm sorry?

13:49:15 19 Q. Did it go to some sort of a drum  
13:49:17 20 or a tank?

13:49:17 21 A. I don't know where it went.

13:49:19 22 Q. Have you ever heard of a  
13:49:20 23 degreaser?

13:49:22 24 A. A degreaser?

13:49:24 25 Q. Yeah.

13:49:25 1 A. Have I ever heard of it?

13:49:27 2 Q. Yeah.

13:49:27 3 A. Yes.

13:49:28 4 Q. Did the transformer shop have a  
13:49:31 5 degreaser?

13:49:32 6 A. I don't know. I'll be honest, I  
13:49:35 7 don't know.

13:49:35 8 Q. How about a dip tank?

13:49:37 9 A. A dip tank?

13:49:40 10 Q. Yeah.

13:49:47 11 A. I don't -- I don't recall that.

13:49:49 12 Q. Do you know if the garage had a  
13:49:52 13 Steam Jenny?

13:49:52 14 A. A who? Steam Jenny? It did. It  
13:49:56 15 didn't work half the time, I think.

13:49:58 16 Q. How did you know about the Steam  
13:50:00 17 Jenny?

13:50:00 18 A. Just walking through the garage,  
13:50:03 19 you'd see it sitting there. That's all I know.

13:50:05 20 Q. What did it look like?

13:50:07 21 A. Oh, God. That I don't recall.

13:50:11 22 Q. Do you remember who operated it?

13:50:14 23 A. Probably one of the mechanics, I  
13:50:17 24 guess.

13:50:17 25 Q. Do you know what it was used for?

13:50:22 1 A. Huh?

13:50:24 2 Q. Do you know what it was used for?

13:50:26 3 A. Could be for steaming engines. It  
13:50:29 4 could be used for a lot of things.

13:50:31 5 Q. You just knew one was there,  
13:50:32 6 right?

13:50:33 7 A. Yes. They could have used it to  
13:50:36 8 cut mud off equipment, I guess.

13:50:39 9 Q. Do you remember any of the names  
13:50:45 10 of the mechanics in the garage?

13:50:46 11 A. You know, I can see their faces,  
13:51:00 12 but I can't recall their names.

13:51:02 13 Q. I know that feeling. Are you  
13:51:25 14 thinking about it?

13:51:26 15 A. Sir?

13:51:27 16 Q. Are you thinking about those  
13:51:28 17 mechanics?

13:51:28 18 A. Yeah. I'm thinking, but I'm --  
13:51:31 19 it's not coming. It's not coming back to me.

13:51:34 20 Q. Okay. I'm going to ask you about  
13:51:46 21 the oil house. Do we have a photo? What  
13:51:55 22 happened to the oil?

13:51:55 23 A. The oil that came from the  
13:51:58 24 transformers, big and small was -- they  
13:52:04 25 reclaimed the oil.

13:52:05 1 Q. Filtered it? They filtered it?

13:52:11 2 A. Yes.

13:52:11 3 Q. How did they filter it?

13:52:13 4 A. With some kind of a machine they  
13:52:16 5 have.

13:52:16 6 Q. Did they use sand?

13:52:18 7 A. Sir?

13:52:19 8 Q. Did they use sand to filter it?

13:52:21 9 A. No. No. It was more like a felt  
13:52:31 10 paper. It was about yeah wide (indicating).

13:52:32 11 It was run through a machine of all these

13:52:35 12 filters about that wide (indicating) and then

13:52:38 13 they had other ways. They had ways to test the

13:52:44 14 oil for different things, for water or anything

13:52:47 15 like that, I guess.

13:52:48 16 Q. Did you observe this process from  
13:52:56 17 time to time?

13:52:57 18 A. I'm sorry?

13:52:57 19 Q. Did you observe this process from  
13:52:59 20 time to time?

13:52:59 21 A. No, I never did.

13:53:00 22 Q. How did you know about the  
13:53:01 23 filters?

13:53:02 24 A. We also used a filter machine in  
13:53:05 25 electric construction for the big transformers.

13:53:08 1 Q. Oh, you filtered your own  
13:53:10 2 transformer oil?

13:53:10 3 A. Yes.

13:53:11 4 Q. When you say you did it in  
13:53:13 5 electric construction, where was that on the --  
13:53:15 6 was that at the service building?

13:53:17 7 A. In the substation mostly.

13:53:18 8 Q. Oh, okay.

13:53:20 9 A. They would put a -- it's a hard  
13:53:29 10 thing to describe. They would have one back in  
13:53:31 11 transformers that they could get out, off a  
13:53:34 12 line, they would be working, change the  
13:53:41 13 bushings, and while they were doing that, they  
13:53:43 14 took the oil through this filter and run it  
13:53:46 15 back in. They just filtered all the oil back  
13:53:48 16 into the transformer.

13:53:49 17 Q. And they did that in the oil  
13:53:51 18 house?

13:53:51 19 A. No, it was done on the job.

13:53:52 20 Q. At the substations?

13:53:53 21 A. Yes.

13:53:54 22 Q. The oil house --

13:53:56 23 A. They also did it in oil house.

13:53:58 24 Q. So have you heard the term  
13:54:02 25 fuller's earth?



13:54:03 1 A. Huh?

13:54:04 2 Q. Fuller's earth? F U L L E R.

13:54:07 3 A. Yeah, I know what fuller's earth  
13:54:09 4 is. Now, if they had had a spill, they used  
13:54:17 5 that.

13:54:17 6 Q. To clean up the spill?

13:54:20 7 A. Yeah. Clean up the spill with  
13:54:24 8 fuller's earth. The garage used that mostly.

13:54:26 9 Q. What did they do with the fuller's  
13:54:30 10 earth after they soaked up the spill?

13:54:32 11 A. They bagged it. Where it went,  
13:54:35 12 I'm not sure. I don't know.

13:54:36 13 Q. Do you know whether they used  
13:54:38 14 fuller's earth in the oil house?

13:54:42 15 A. Huh?

13:54:44 16 Q. Do you know whether they used  
13:54:45 17 fuller's earth in the oil house?

13:54:48 18 A. I imagine they did. I'm not sure.

13:54:50 19 Q. Do you know what they did with the  
13:54:52 20 used filters in the oil house?

13:54:53 21 A. Put them in bags.

13:54:55 22 Q. And then did what?

13:54:56 23 A. Disposed of them. Where, I don't  
13:54:59 24 know.

13:54:59 25 Q. Take a look at what we've marked

13:55:03 1 as your Exhibit Number 3. And I'm wondering if  
13:55:09 2 you recognize that rectangular building in the  
13:55:13 3 center of the photograph.

13:55:14 4 A. Yeah, that's -- I believe that's  
13:55:37 5 the oil house.

13:55:37 6 Q. Do you see there's a window on the  
13:55:42 7 oil house there? Do you see that window?

13:55:45 8 A. Yes.

13:55:45 9 Q. Do you see below the window to  
13:55:48 10 the -- you're looking at -- to the right.  
13:55:50 11 There's a couple of -- it looks like metal  
13:55:56 12 portals. I can come around and show you what  
13:56:01 13 I'm talking about. Right on the building wall  
13:56:03 14 there, sort of down near the bottom to the  
13:56:06 15 right of the window.

13:56:07 16 A. I couldn't tell you what --

13:56:08 17 Q. I'm sorry, that would not be --  
13:56:10 18 left of the window.

13:56:10 19 A. I couldn't tell you what that is.

13:56:12 20 Q. You don't know what those are?

13:56:14 21 A. I couldn't tell you.

13:56:16 22 Q. Do you know whether there was a  
13:56:17 23 clean-out at the oil house?

13:56:19 24 A. The only thing I can tell you  
13:56:21 25 about the oil house now is I know that they

13:56:24 1 filtered oil there. That's all I can tell you.

13:56:27 2 Q. Uh-huh.

13:56:31 3 A. And they had an old gentleman --

13:56:34 4 he's dead now -- but the old gentleman stayed

13:56:38 5 in the oil house. That was part of his job, to

13:56:41 6 look it over and make sure everything was

13:56:43 7 moving.

13:56:44 8 Q. You don't remember his name?

13:56:44 9 A. No.

13:56:47 10 Q. Did they -- was there one -- was

13:56:50 11 he there the entire time you were there at the

13:56:53 12 service building, the old gentleman?

13:56:56 13 A. I don't understand your question.

13:56:57 14 Q. I guess I'm wondering if anyone

13:57:00 15 else had that job after him in the oil house,

13:57:05 16 the old gentleman?

13:57:07 17 A. If they did, it was on and off.

13:57:10 18 Q. Uh-huh.

13:57:12 19 A. But who replaced him, I can't tell

13:57:15 20 you.

13:57:15 21 Q. Okay. All right. And that man

13:57:17 22 was there when you started, when --

13:57:19 23 A. He was there when I started and he

13:57:22 24 retired before I did.

13:57:24 25 Q. Uh-huh.

13:57:33 1 A. If that helps a little.

13:57:34 2 Q. That helps a little. A few more  
13:57:36 3 questions. We're getting close to the end.

13:57:38 4 A. Oh, good. Happy new year. Let me  
13:57:46 5 wet my whistle here.

13:57:56 6 (Thereupon, an off-the-record  
13:57:56 7 discussion was had.)

13:58:17 8 THE WITNESS: I do worry some. I  
13:58:18 9 want to be as exact as I can be. I love my  
13:58:21 10 company, don't get me wrong.

13:58:23 11 Q. I got it. Okay. I appreciate  
13:58:26 12 that. Thanks. All right. I want to ask you  
13:58:31 13 about the gas meter and measurement shop.

13:58:34 14 A. Gas meter shop.

13:58:34 15 Q. Yeah.

13:58:47 16 A. One of them boys is still living.

13:58:48 17 Q. Who would that be?

13:58:49 18 A. But I couldn't tell you his name.  
13:58:52 19 And she -- she saw him at a luncheon here a  
13:58:56 20 while back.

13:58:57 21 Q. Who saw him? Your wife?

13:58:59 22 A. Yes.

13:59:00 23 Q. Was it Jenkins?

13:59:03 24 A. I try to go to all the luncheons  
13:59:06 25 for retirees.

13:59:08 1 Q. Was it Jenkins?

13:59:10 2 A. I couldn't hear him.

13:59:14 3 MRS. FLECKENSTEIN: Jenkins.

13:59:15 4 THE WITNESS: Jenkins?

13:59:17 5 MRS. FLECKENSTEIN: Uh-huh. I saw  
13:59:18 6 him?

13:59:20 7 THE WITNESS: Huh?

13:59:21 8 MRS. FLECKENSTEIN: I saw him at the  
13:59:22 9 luncheon?

13:59:23 10 THE WITNESS: No, it wasn't Jenkins,  
13:59:24 11 though. I don't know who it was.

13:59:26 12 Q. If it comes to you, let me know.  
13:59:29 13 Okay?

13:59:30 14 A. Okay.

13:59:31 15 Q. So you remember the gas meter and  
13:59:34 16 measurement shop, right?

13:59:35 17 A. Gas meter shop.

13:59:36 18 Q. Yeah. Was that near the  
13:59:40 19 blacksmith shop?

13:59:40 20 A. No. That was on the other side.

13:59:42 21 Q. That was only on the --

13:59:44 22 A. That was on the west side of the  
13:59:45 23 building.

13:59:46 24 Q. Did it move at one point from --

13:59:48 25 A. West side meter shop and electric

13:59:51 1 construction and stores department.

13:59:53 2 Q. So it was somewhere along the west  
13:59:57 3 dock, right?

13:59:57 4 A. Yes.

13:59:58 5 Q. Did you ever go in there?

14:00:00 6 A. Did I ever go in there?

14:00:02 7 Q. Gas meter.

14:00:05 8 A. Well, they had -- they had moved  
14:00:09 9 that out. And what they did with it, they  
14:00:18 10 abandoned that.

14:00:25 11 Q. Do you remember what they did with  
14:00:26 12 it? Did they move it to another location at  
14:00:29 13 the service building?

14:00:29 14 A. I don't know whether they did or  
14:00:31 15 not. See, that's in a period of time when I  
14:00:36 16 had to leave from Dayton to Wilmington, and I  
14:00:45 17 don't know what happened with the shop, whether  
14:00:53 18 they decided to quit repairing them or what. I  
14:00:56 19 don't know.

14:00:57 20 Q. But before that, when you were  
14:00:58 21 still at Dayton, before you went to Wilmington,  
14:01:02 22 the shop was there on the west -- west dock?

14:01:05 23 A. West dock.

14:01:06 24 Q. And did you ever have a -- did you  
14:01:18 25 ever have the opportunity to visit the gas

14:01:20 1 meter shop?

14:01:21 2 A. Oh, yeah. When they abandoned --  
14:01:25 3 I shouldn't -- when they abandoned that shop,  
14:01:29 4 they had an anvil and the construction people  
14:01:35 5 didn't know what to do with it.

14:01:36 6 Q. With the anvil?

14:01:37 7 A. And I ended up with the anvil.

14:01:39 8 Q. In the blacksmith shop?

14:01:41 9 A. No. No. From electric meter  
14:01:44 10 shop -- or gas meter shop. Now, the other  
14:01:47 11 stuff --

14:01:47 12 Q. Did you bring it home?

14:01:48 13 A. Oh, yeah. Sure.

14:01:50 14 Q. So you've got that anvil at home?

14:01:53 15 A. No. I don't have it anymore.

14:01:54 16 Q. Well, back when the gas meter shop  
14:02:04 17 was on the west dock, do you remember the gas  
14:02:06 18 meter shop having a paint booth?

14:02:08 19 A. No, I don't know if they did or  
14:02:09 20 not.

14:02:10 21 Q. How about a degreaser?

14:02:11 22 A. No, I couldn't tell you either. I  
14:02:14 23 just knew faces. When I'd walk by, they were  
14:02:19 24 working on them.

14:02:20 25 Q. Okay. And what about the gas

14:02:23 1 operations regulator shop? Do you remember  
14:02:25 2 that? Gas operations regulator shop.

14:02:29 3 A. That was ahead of the gas meter  
14:02:37 4 shop. That was just on the west side, but it  
14:02:39 5 was the beginning of the whole west dock, was  
14:02:42 6 in that little area there they had a meter  
14:02:45 7 shop. But now -- or a shop.

14:02:49 8 Q. Regulator shop?

14:02:51 9 A. I think they worked on the  
14:02:53 10 regulators, the big regulators. But I can't  
14:02:59 11 swear to that either.

14:03:00 12 Q. Ever been inside that regulator  
14:03:02 13 shop?

14:03:02 14 A. Walk through it.

14:03:04 15 Q. Do you remember seeing --

14:03:05 16 A. Just walking from the corridor  
14:03:10 17 down and cut through there.

14:03:11 18 Q. Do you remember seeing any paint  
14:03:13 19 booth in there?

14:03:14 20 A. No, I don't.

14:03:15 21 Q. Or degreaser?

14:03:16 22 A. Not that I can recall.

14:03:33 23 MR. SILVER: I'm going to take five  
14:03:35 24 minutes and see if there's any more questions and  
14:03:37 25 then shut it down.



14:03:38 1 (Thereupon, a break was had.)

14:08:39 2 Q. All right. Bill, we're in the  
14:08:41 3 homestretch. I just want to ask you a few  
14:08:44 4 questions.

14:08:45 5 You mentioned a couple names while we  
14:08:47 6 were off the record. A Jim Elliott working in the  
14:08:51 7 garage.

14:08:51 8 A. He worked as a mechanic and then  
14:08:55 9 he become foreman.

14:08:57 10 Q. Do you know if he's still alive?

14:08:59 11 A. I doubt it. I would doubt it.

14:09:02 12 Q. But you don't know one way or  
14:09:05 13 another?

14:09:05 14 A. No. The one I'm trying to think  
14:09:08 15 of, I know he's gone. And I can -- I should  
14:09:15 16 know him. The reason I should know him, his  
14:09:20 17 wife used to buy chickens off of my dad.

14:09:22 18 Q. That's all right. Especially if  
14:09:24 19 he's deceased. It probably isn't going to help  
14:09:27 20 us that much anyhow.

14:09:32 21 A. No, I doubt it.

14:09:32 22 Q. You mentioned Bill the painter.  
14:09:35 23 You can't remember his last name?

14:09:36 24 A. I can't remember.

14:09:37 25 Q. Was that somebody in the

14:09:38 1 transformer shop or --

14:09:40 2 A. No. No. He was in the garage  
14:09:43 3 truck -- he painted the trucks and cars.

14:09:45 4 Q. Yeah.

14:09:46 5 A. They had their own body shop.

14:09:49 6 Q. Was he the one with the whiskey?

14:09:51 7 A. Yes.

14:09:52 8 Q. All right.

14:09:55 9 A. Now, he'd only take a little drink  
14:09:59 10 because I watched him. So I know it. He was a  
14:10:04 11 wonderful man. He was a good man.

14:10:07 12 Q. You kept your eye on him?

14:10:09 13 A. No, I didn't keep my eye on him.  
14:10:12 14 Some people you can be friends with and some  
14:10:14 15 you can't. Okay?

14:10:16 16 Q. Yep.

14:10:17 17 A. And you -- let's see. How do I  
14:10:20 18 put this? You relate to them some way. There  
14:10:24 19 was a gentleman that worked -- that boarded  
14:10:28 20 with my father. I can't tell you his name  
14:10:32 21 either. But --

14:10:34 22 Q. And then you mentioned a fellow  
14:10:35 23 that came over from Vandrum in Trotwood to work  
14:10:40 24 on the Ford trucks? Is that Bill the painter  
14:10:44 25 or somebody else?

14:10:45 1 A. Bill the painter, and the other  
14:10:47 2 one was a painter.

14:10:48 3 Q. And that was Jim Elliott?

14:10:50 4 A. Jim Elliott.

14:10:53 5 MR. SILVER: Okay. I don't have any  
14:10:55 6 more questions. All right, Bill. You've done  
14:10:59 7 great. I've enjoyed talking to you. And I'm  
14:11:02 8 going to see if --

14:11:03 9 THE WITNESS: Well, when you're  
14:11:05 10 eighty-two years old and live in the same area,  
14:11:08 11 you remember a lot of things.

14:11:10 12 MR. SILVER: I understand.

14:11:13 13 THE WITNESS: Fun things, both.

14:11:14 14 MR. SILVER: I'm going to pass --  
14:11:16 15 pass the baton over to Frank Merrill, the attorney  
14:11:20 16 who represents DP&L, to see if he has any  
14:11:23 17 questions.

14:11:23 18 CROSS-EXAMINATION

14:11:41 19 BY MR. MERRILL:

14:11:41 20 Q. Good afternoon, Mr. Fleckenstein.

14:11:45 21 My name is Frank Merrill, and I represent The  
14:11:49 22 Dayton Power and Light Company. I'm going to  
14:11:51 23 ask you a couple questions along the lines that  
14:11:53 24 Mr. Silver just asked you.

14:11:56 25 First of all, I'd like to

14:11:57 1 apologize for requiring your attendance here  
14:12:01 2 today that --

14:12:03 3 A. No, that's -- whatever has to be,  
14:12:06 4 has to be.

14:12:07 5 Q. Okay. I'm glad that you  
14:12:10 6 understood that and that this is not being done  
14:12:14 7 at the behest of Dayton Power and Light  
14:12:17 8 Company, that we did not ask for your  
14:12:20 9 deposition. We're here just like you because  
14:12:23 10 we've been asked to be here.

14:12:25 11 A. Okay.

14:12:25 12 Q. You indicated in one of the  
14:12:32 13 exhibits, I believe, maybe in Exhibit 1, the  
14:12:38 14 large aerial photo the general location of what  
14:12:42 15 you called the dump?

14:12:43 16 A. The dump.

14:12:44 17 Q. Yeah. Do you recall that,  
14:12:46 18 Mr. Fleckenstein?

14:12:47 19 A. It's in this area here  
14:12:50 20 (indicating), I do believe if this is the river  
14:12:53 21 running behind it. I think. I don't know what  
14:12:56 22 they call the river, but --

14:12:58 23 Q. And this is the dump that's across  
14:13:00 24 the street from the DP&L service center?

14:13:04 25 A. Yes.

14:13:04 1 Q. Were you ever at this dump?

14:13:09 2 A. Was I ever at it? Not that I can  
14:13:12 3 recall.

14:13:14 4 MR. MERRILL: I have no further  
14:13:14 5 questions.

14:13:16 6 THE WITNESS: Is that it?

14:13:17 7 MR. MERRILL: That's it.

14:13:18 8 THE WITNESS: Thank you.

14:13:19 9 MR. SILVER: We're going to see if  
14:13:20 10 anyone else has any questions, Bill. I don't  
14:13:23 11 think so, but we got to go around the room and  
14:13:25 12 have a chance to say no.

14:13:27 13 THE WITNESS: Okay. That's fine.

14:13:29 14 MR. SILVER: Anybody else?

14:13:30 15 MS. SMARDA: I have no questions on  
14:13:31 16 behalf of Cox Media Group.

14:13:34 17 MR. SILVER: And what about on the  
14:13:35 18 phone?

14:13:36 19 MR. WINELAND: No questions on behalf  
14:13:38 20 of the Sherwin-Williams Company.

14:13:41 21 MS. BAIRD: No questions on behalf of  
14:13:43 22 Pharmacia, LLC.

14:13:44 23 MR. NES: No questions for  
14:13:48 24 P-Americas.

14:13:48 25 MR. HARBECK: No questions for Waste

14:13:50 1 Management of Ohio.

14:13:53 2 MR. SILVER: All right. I think  
14:13:54 3 that's no questions for Fickert Devro and Dayton  
14:13:59 4 Industrial Drum. Anybody else? All right. I  
14:14:02 5 think we're done, Bill. You're free to go. It's  
14:14:05 6 new year's.

14:14:08 7 (Thereupon, an off-the-record  
14:14:08 8 discussion was had.)

14:14:08 9 (Thereupon, signature was waived.)

14:14:08 10 (Thereupon, the deposition was  
14:14:08 11 concluded at 2:14 p.m.)

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1 STATE OF OHIO )

2 COUNTY OF MONTGOMERY ) SS: CERTIFICATE

3 I, Michelle A. Elam, a Notary  
4 Public within and for the State of Ohio, duly  
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the  
7 above-named WILLIAM FLECKENSTEIN, was by me first  
8 duly sworn to testify the truth, the whole truth  
9 and nothing but the truth.

10 Said testimony was reduced to  
11 writing by me stenographically in the presence  
12 of the witness and thereafter reduced to  
13 typewriting.

14 I FURTHER CERTIFY that I am not a  
15 relative or Attorney of either party, in any  
16 manner interested in the event of this action,  
17 nor am I, or the court reporting firm with which  
18 I am affiliated, under a contract as defined in  
19 Civil Rule 28(D).

20

21

22

23

24

25

1                   IN WITNESS WHEREOF, I have hereunto set  
2 my hand and seal of office at Dayton, Ohio, on  
3 this \_\_\_\_ day of \_\_\_\_\_, 2013.

MICHELLE A. ELAM  
NOTARY PUBLIC, STATE OF OHIO  
My commission expires 5-2-2015





**LEGEND**

- APPROXIMATE SITE BOUNDARY
- PARCEL BOUNDARY



SOURCE:  
MONTGOMERY COUNTY

figure 1.19

1968 AERIAL PHOTOGRAPHY  
OU1 REMEDIAL INVESTIGATION REPORT  
SOUTH DAYTON DUMP AND LANDFILL SITE  
Moraine, Ohio

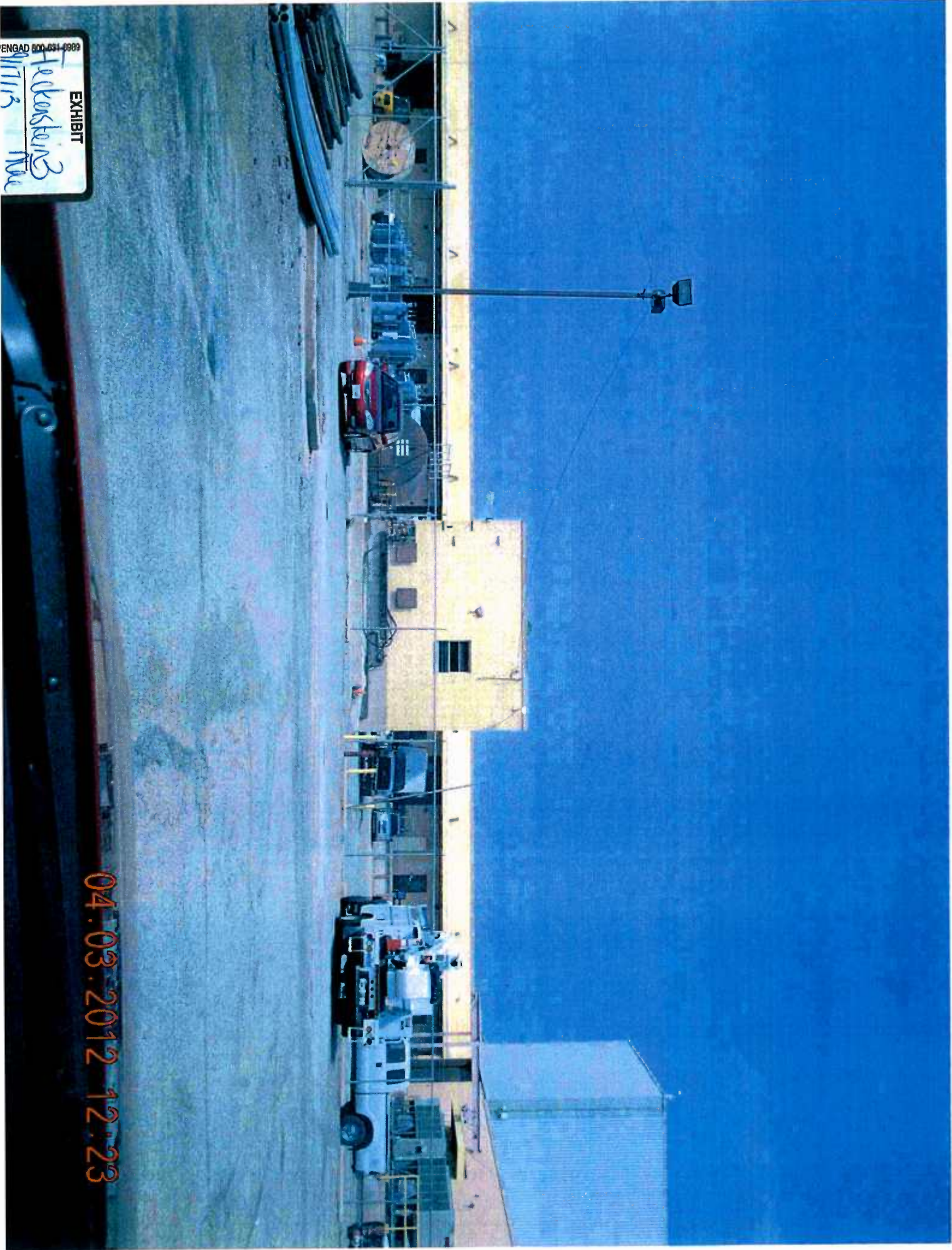




PENGAD 800-631-6989

EXHIBIT  
Fleckenstein  
9/11/13  
Nue





ENGAD 800-631-0909  
EXHIBIT  
Helkosta 1/3  
11/1/13

04:03:2012 12:23